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VIA E-MAIL to rggiprograms@nyserda.org

RGGI Programs
Attn: Dave Coup
New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Re: Comments on NYSERDA's Draft Operating Plan for Investments in New York under the CO_2 Budget Trading Program and the CO_2 Allowance Auction Program

Dear Mr. Coup:

Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities ("O&R") (collectively, the " Companies") respectfully submit the following comments on NYSERDA's February 25, 2009 Draft Operating Plan for Investments in New York under the CO_2 Budget Trading Program and the CO_2 Allowance Auction Program (the "Draft Plan"). The Draft Plan proposes how the proceeds from the sale of CO_2 allowances from the Regional Greenhouse Gas Initiative ("RGGI") would be spent by NYSERDA.

The Companies request that, in finalizing its Draft Plan, NYSERDA should (1) provide for the expeditious disbursement of funds so that the State and the State's electric utilities can start achieving the Governor's goals and maximize the benefits that can be achieved, (2) seek to optimize the deployment of all the funds that NYSERDA will be receiving for the purposes of reducing carbon output and enhancing New York State's energy infrastructure by integrating all of NYSERDA's electric related programs, (3) provide utilities a more active role in the programs, (4) ensure geographic equity in the expenditure of RGGI proceeds and other electric customer-funded sources, (5) give priority to programs that provide benefits to electric customers and the electric system, and (6) increase funding for the electric measures to support the overall goal of a sustainable energy system and review funding levels for some of the other programs. The Companies look forward to participating in an open and transparent process for determining the distribution of RGGI auction proceeds to achieve the goal of reducing greenhouse gas ("GHG") emissions in a cost-effective manner.

INTRODUCTION

The Companies have supported the development of RGGI since its early development. They continue to support the overall goals of RGGI and the development of an environmentally sustainable State and local economy.

The Draft Plan proposes to channel RGGI auction funds into five sectors, and suggests specific funding levels for each of those sectors, including the residential, commercial and industrial sectors, electric power supply and delivery sector, transportation sector, agriculture sector, and a group of multi-sector programs. Under the Draft Plan, the RGGI auction proceeds will generally be used to fund activities that mitigate CO_2 and other GHG emissions, either by supplementing existing NYSERDA programs or by establishing new programs.

New York State now has a historic opportunity to quickly deploy funds to allow the realignment of the State's energy production and consumption, with the assistance of utilities, to reduce environmental impact and enhance sustainability by increasing the efficiency of energy use and shifting to an increased reliance on renewable sources of energy. The challenge is to develop a single, comprehensive plan to achieve the goal of a sustainable energy system using all available funding sources. It is critical that *all* of the funds available to NYSERDA be optimized (including funds from RGGI and from the Renewable Portfolio Standard ("RPS") and System Benefits Charge ("SBC") programs), so that customers are funding the programs that are needed in the most efficient manner, and that the funds are put to use immediately including by utilities, that can further achievement of the State's goals.[1]

Electric utilities should be viewed as key partners with NYSERDA to achieve carbon emissions reductions in every sector, because all sectors are consumers of electricity. The electric utilities best know their customers and they have substantial experience with many of the programs proposed in the Draft Plan. Large, historic investments will be made in the energy sector over the next few years, with an estimated $525 million available from RGGI auction proceeds in New York State over the next three years, $330 million available from the RPS program and $451 million available from the SBC program. Care must be taken to ensure that these funds are best employed to achieve the overarching goal of a sustainable energy system, and utilities can help achieve that goal.

NYSERDA should also include geographic equity as a priority criterion in allocating funds to the various programs. This is important because, while geography is irrelevant when considering carbon reductions exclusively, geography *is* important when the ancillary ambient air pollution reduction benefits as well as the economic benefits of local programs are taken into account. In particular, NYSERDA should take into account the need to provide benefits to the urban and downstate areas that it has had difficulty reaching to date in its administration of the

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[1] Additional funding available from the federal American Recovery and Reinvestment Act ("ARRA") can be put to use to achieve stretch goals that would not be possible with the funds currently available to NYSERDA.

SBC and RPS programs, and that a large amount of the funds originate from downstate customers in the first place, and so they should also receive the benefits in a fair and non-discriminatory manner. Rather than focusing exclusively on the projects with the greatest carbon abatement per dollar invested, NYSERDA should modify its selection criteria to choose projects with the greatest total value to the greatest number of customers, particularly when the "non-carbon" benefits of projects are included in the evaluation.

RGGI funds, as well as RPS and SBC funds, are collected from electric customers. It is therefore fair and equitable to spend these funds on programs that benefit those same electric customers. Under the Draft Plan, however, electric customer payments from the RGGI auction proceeds could end up being used to encourage those same customers to migrate their energy usage to other energy sources that are not subject to a cost for carbon emissions. To avoid this outcome, the Companies recommend that priority in funding be given to programs, regardless of the sector, that benefit electric customers and the electric system, and which will help to reduce carbon emissions in the electric sector and the future costs of compliance to be borne by electric sector customers. For the same reasons, the relative funding level proposed for some of the sectors should be revisited to ensure that cross-subsidization of other energy sources by electric customers is minimized. In fact, the basis for the relative funding level among the sectors is not sufficiently explained and appears to result in unjustified cross-sector subsidization

Finally, the Companies support the proposal in the Draft Plan to allocate some RGGI auction proceeds if auction prices are higher than $5/ton to RPS program funding, because RPS programs by their nature provide benefits to the electric system as well as reducing CO_2 emissions.

DISCUSSION

1. **Funds Should be Provided to Support Energy Initiatives in an Expedited Manner**

NYSERDA has collected funds from the SBC and RPC for some time, and now finds that RGGI funds are also becoming available. At the same time, utilities are also developing programs to support achieving the State's energy initiatives. It is important that a process be put in place to enable funds to be disbursed quickly, including to utilities, so that programs can be funded and implementation started with the benefit of these funds. This will be important, particularly in the current economic climate, to effectively utilize these customer-funded revenues.

2. **All Sources of Electric Customer Funding to NYSERDA Should be Viewed as a Single Fund; NYSERDA's Electric Customer Programs Should be Integrated to More Effectively Allow New Yorkers to Move to a Sustainable Energy System**

NYSERDA currently receives the proceeds of the State's RPS and SBC funding mechanisms, and will soon be receiving the estimated $525 million proceeds of the RGGI auctions. When the RGGI auction proceeds are combined with the $330 million that NYSERDA will receive from the RPS mechanism from 2009 to 2011 and the $451 million that NYSERDA will receive from the SBC mechanism over the same period, NYSERDA will have over $1.3 billion collected from electric customers to invest in energy related projects over the next three years. The funds from the RPS and SBC are used by NYSERDA for a variety of programs, including competitive procurement of renewable energy, increasing energy efficiency and reducing peak load demand, and educating consumers on how to enhance their energy usage. All these activities result in reduced CO_2 emissions, and secondary benefits such as reduced emissions of other pollutants, improved electric system reliability, and economic stimulus. The

Draft Plan proposes to use the RGGI auction proceeds to fund projects that will achieve similar goals. However, rather than funding parallel, potentially duplicative programs with attendant increased administrative costs, NYSERDA should integrate *all* of its programs that are funded by electric customers to focus on the overarching goal of achieving a sustainable energy system in New York State and rely on New York State's electric utilities to quickly and effectively implement these programs. By integrating all of NYSERDA's disparate electric system activities, duplication will be eliminated, administrative costs will be reduced, and, with increased focus, the likelihood of achieving the ultimate goal will be increased. Importantly, the funding mechanisms should be reviewed to ensure that customers pay no more than is absolutely necessary to achieve a sustainable energy system, and steps should be taken to ensure that the funds should be spent as soon as practicable after they become available to speed up the achievement of benefits.

The challenge facing the State's energy production and consumption system is clear. The impacts of climate change have been acknowledged by New York's leadership role in establishing RGGI, but an uncoordinated collection of programs is less likely to result in the transformational changes that are needed to address climate change than is a single, coherent program. NYSERDA, the Public Service Commission ("PSC"), the New York State Department of Environmental Conservation ("DEC"), other stakeholders and government agencies, with the help of the State's electric utilities, should develop a single coordinated program, and then determine the appropriate level of funding to achieve the goals of that program. In addition, the State's electric utilities are in various stages of implementing demand response and electric energy efficiency programs, and the money collected by the utilities from all customers to fund these programs must also be considered when NYSERDA and its stakeholders consider the appropriate level of funding to achieve a sustainable energy system. Once appropriate funding for the integrated NYSERDA program is determined, then adjustments can be made to the RPS and SBC charges in combination with the resulting RGGI auction proceeds to make sure that the integrated NYSERDA program is appropriately and consistently funded.

Since not all areas of the State currently fund the RPS or SBC mechanisms, care should be taken to ensure that, absent additional contributions by those areas, the integrated programs to be developed by NYSERDA recognize that difference in customer payments and adjust program activities in those areas accordingly.

3. Allowing a More Active Role for Utilities Will Improve Achievement of Public Policy Goals Contained in the Draft Plan

NYSERDA can increase the effectiveness of its electric-customer-funded expenditures by tapping into the expertise of utilities through the funding of additional activities in existing utility programs that will reduce CO_2 emissions. The PSC has begun to approve utility-managed energy efficiency programs, and a number of New York utilities, including the Companies, have existing or proposed programs to install solar resources in their service territories that have the potential to mitigate carbon emissions. These efforts will reduce CO_2 emissions and also provide secondary benefits, such as reducing emissions of other pollutants, enhancing electric system reliability and encouraging local job creation. It makes sense for NYSERDA to channel some of the RGGI auction proceeds into these existing and proposed utility programs as they are approved. Doing so will ensure that the funds are spent sooner, with maximum efficiency and effectiveness throughout the State.

With $525 million in funds expected from the RGGI auctions, it would be impractical if at all possible for NYSERDA to implement RGGI projects solely through its own program channels. "Going it alone" will likely result in a need for an increase in NYSERDA staff, and unavoidably lengthen the time between when the RGGI auction proceeds are collected and when they are spent. Clearly, any delays in investing RGGI auction proceeds in carbon reduction projects will result in more CO_2 emissions than if projects are started sooner, and will also delay the secondary benefits that RGGI funded projects are expected to provide.

The Companies and other utilities have special insight into opportunities within their customer base due to their close relationship with customers as a result of existing billing, metering, and other customer service interactions. By facilitating the financing of utility programs, NYSERDA can leverage utility knowledge of their customers' preferences and experience in customer outreach and education to more effectively and efficiently help achieve CO_2 reductions. Because virtually every portion of the State is served by a utility, channeling some portion of the RGGI auction proceeds through utilities also will enhance the possibility of achieving geographic equity in fund disbursement.

4. A Focus on Regional Equity of Fund Disbursement will Provide Additional Benefits

The best way to provide for regional equity is to allocate money directly to utilities. Downstate customers will provide significant contributions to the RGGI auction proceeds and should have an opportunity to benefit from the secondary impacts of RGGI funded projects in all sectors, such as reduced particulate emissions, electric system reliability benefits, and job creation. While reducing CO_2 emissions can occur anywhere in New York State and have the same overall impact on mitigating climate change, secondary benefits are often more localized in nature, and therefore it is appropriate to consider regional equity of funding to increase the likelihood that citizens throughout New York State equitably share the benefits of projects funded with proceeds of the RGGI auctions.

The Companies also propose that regional equity should be specifically considered in the design of the proposed Competitive Greenhouse Gas Reduction Bidding Program. The Companies support the concept of this program, which will harness the competitive forces of the market to reduce the costs of carbon reduction, but note that without appropriate program design, the competitive bidding program could result in funding projects only in the upstate region, because the costs of virtually any activity is less expensive outside of the downstate region. The Companies suggest that a bi-regional (upstate and downstate) auction design be implemented to ensure some regional equity in this program.[2]

Another method of achieving regional equity of RGGI funding is by adopting technology specific targets for each region of the State. NYSERDA should consider adopting a program design that will use RGGI auction proceeds to fund new and promising technologies like solar photovoltaics and solar "thin-film" projects, offshore wind farms, Smart Grid, and Smart Grid-related infrastructure, and create targets to achieve CO_2 reductions using specific technologies that are most appropriate for each of the respective regions. Finally, NYSERDA should consider broadening the scope of the Agriculture sector funding to include support for urban farming initiatives, which reduce carbon emissions by reducing the need to transport agriculture products over long distances and provide secondary benefits to the local environment like improved nutrition and increased job opportunities in urban areas.

[2] While no region should be inadvertently excluded from receiving funding from the RGGI auction proceeds, it is likewise true that no region should be specifically allocated funding prior to program implementation. For this reason, the Companies believe that specific mention of funding for an area or utility in the Draft Plan is not appropriate and should be deleted. All customers that fund RGGI should have an opportunity to benefit, regardless of the utility that serves them or where they live.

5. Priority Should Be Given to Funding for Projects That Benefit Electric Customers

Given that RGGI auction proceeds are funded by electric customers, prioritizing funds for projects that benefit electric customers will allow some electric customers to mitigate the cost impact of CO_2 allowances. By prioritizing RGGI funds for projects that benefit either electric customers or the electric system, customers will be able to "close the loop" on the price signal being communicated when a cost is attached to CO_2 emissions.[3] All sectors of the economy, including Transportation, Residential/Commercial/Industrial and Agriculture, have CO_2 abatement opportunities related to electric consumption. For example, electric motor upgrades and high efficiency lighting in agricultural facilities, development of infrastructure to accommodate the electrification of the transportation sector through electric vehicles and Plug-in Hybrids, and installation of solar panels on commercial or residential rooftops, all provide opportunities to invest RGGI auction proceeds in projects that ultimately benefit electric customers. Off shore wind generation projects should also be considered for funding because such projects can also help to achieve RGGI's overall carbon reduction goals by reducing the carbon intensity of New York's generation portfolio. These projects would also allow downstate areas to receive the secondary benefits (reduced emissions from other generators, job creation), thereby enhancing the regional equity of the RGGI program.

Current efforts underway to test Smart Grid concepts also show promise, with specific opportunities that can improve electric system efficiency that will have a corresponding CO_2 and other pollutant emissions reduction impact. Upgrading other elements of the electric system --

[3] In the alternative, if NYSERDA chooses to consider using RGGI auction proceeds to enhance fossil fuel efficiency, strong consideration should be given to prioritizing oil-to-gas conversions and gas-to-gas efficiency upgrades. Because natural gas is less carbon intensive per unit of energy than heating oil, encouraging greater use of gas by current oil customers will be more likely to achieve the RGGI program's overall goal of reducing CO_2 emissions.

by accelerating the installation of upgraded electric transformers that meet the new U.S. Department of Energy high efficiency standards, for example -- will also achieve CO_2 and other pollutant emissions reductions. VAR support also has the potential to improve the efficiency of the electric delivery system, whether the bulk transmission system, the distribution system, or inside customer's premises.

Spending RGGI funds that were collected from electric customers to reduce CO_2 emissions from other energy sources will result in cross-subsidizing those energy sources to the detriment of electric customers. This cross-subsidization causes a "negative feedback loop," by funding projects that have the unintended consequence of encouraging customers to abandon the electric system – where CO_2 emissions have a cost – and convert to other sources of energy where CO_2 emissions are free. Under some scenarios, this may potentially increase total CO_2 emissions, should the lower cost of the alternative energy lead some customers to reduce their usage efficiency.

As an example, consider an electric customer that applies to NYSERDA to convert an old electric powered compressor to a more efficient model. The customer can choose a high efficiency electric-powered compressor or a high efficiency diesel-powered compressor, with funding support from NYSERDA RGGI proceeds for either upgrade, and opts for the fossil-fuel powered unit, partly to avoid the CO_2 costs. However, because emissions of CO_2 from diesel fuel have no CO_2-related cost, the customer will now have less of a price incentive to economize on use of the compressor, thereby increasing CO_2 emissions. Moreover, smaller diesel-powered machinery is not generally subject to the stringent air quality requirements of electric generation facilities, so the customer's decision to switch from electric usage may actually increase local particulate and other pollutant emissions.

The Companies support NYSERDA's proposal to use the additional incremental auction proceeds, which would occur if the price for allowances rises above \$5 per allowance, to fund additional efforts to achieve the State's RPS goals. The RPS program directly reduces the CO_2 emissions of the electric generation sector by providing incentives for renewable resources and, therefore, the Companies believe that using some of the RGGI auction proceeds to achieve the RPS goal of having 30% of all electricity consumed in New York State be derived from renewable sources is appropriate. It should be noted that using RGGI funds for RPS goals results in no cross-subsidization of other energy sources and will mitigate the impact of RGGI on electric consumers since additional renewable energy consumption will reduce upward pressure on the costs of RGGI carbon allowances.

Finally, the Companies request that an electric project cost abatement curve be developed and utilized to guide prioritization of funds with benefits to electric customers.

6. Funding Levels for Some Sectors May Need to Be Adjusted

While the Companies appreciate NYSERDA's invitation for input in developing the Draft Plan, the methodology used to determine funding levels for the different sectors was not transparent. For example, Transportation sector funding (at 18% of all funds) may not be appropriate if NYSERDA agrees not to fund Transportation sector projects that are unrelated to the electric system. It would be much more effective to address CO_2 emissions from the Transportation sector through other mechanisms like a low-carbon fuel standard, thereby providing a price signal to drivers that their carbon emissions too have a cost.

Electric Power Supply and Distribution ("EPSD") funding should be increased. Since this sector provides most of the funding for RGGI, and contains the largest number of electric-related project opportunities, it should be allocated the highest amount of funds. Increasing

EPSD funding will also reduce cross-sector and cross-energy-source subsidization effects, which, as previously noted, can have unintended consequences that make it harder to achieve RGGI goals. The Companies suggest increasing funding for EPSD from 20% to 50% of all funds.

In the Multi-Sector program area, NYSERDA should detail how the Climate Research and Analysis program that it proposes will not be duplicative of already funded climate change research; the $9 million funding for this should be reduced, absent a demonstration that this program is providing benefits that are not available from other nationally or internationally funded climate change research initiatives.

Finally, the proposed funding for the Program Evaluation and Administration would consume almost 13% of total funding. While the Companies support strong measurement and verification and acknowledge the need for effective program administration, NYSERDA should consider benchmarking with other states to see if this funding level is appropriate

CONCLUSION

The Companies urge NYSERDA to consider these comments in preparing its final Operating Plan. We look forward to continued participation in the New York State RGGI process and appreciate the opportunity to provide additional stakeholder input.

Respectfully submitted,

Stuart Nachmias